

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal)	
Service)	CC Docket No. 96-45
)	
PETITION FOR WAIVER OF)	
SECTIONS 54.313 AND 54.314 OF)	
THE COMMISSION'S RULES)	
)	

PETITION FOR WAIVER

Northwest Dakota Cellular of North Dakota Limited Partnership; North Central RSA 2 of North Dakota Limited Partnership; North Dakota RSA No. 3 Limited Partnership; Badlands Cellular of North Dakota Limited Partnership; North Dakota 5 – Kidder Limited Partnership; and Bismarck MSA Limited Partnership (collectively, "Partnerships"), by their counsel and pursuant to 47 C.F.R. §§ 1.3 and 1.925(b), hereby request waiver of Sections 54.313 and 54.314 of the Commission's Rules, 47 C.F.R. §§ 54.313 & 54.314. Specifically, the Partnerships request waiver of the January 1, 2004, certification filing deadline set forth in 47 C.F.R. §§ 54.313(d)(3)(ii) & 54.314(d)(2) to enable the Partnerships to receive high-cost universal service support commencing May 24, 2004, the date upon which the Partnerships' eligible telecommunications carrier ("ETC") designations became effective in certain portions of the State of North Dakota.

I. BACKGROUND

The Partnerships are providers of commercial mobile radio service ("CMRS") in the State of North Dakota. On October 15, 2003, each Partnership filed an Application with the North Dakota Public Service Commission ("NDPSC") seeking, among other things, to be

designated as competitive federal ETCs in certain areas in North Dakota.¹ On February 25, 2004, the NDPSC issued an Order designating the Partnerships as competitive ETCs throughout their requested service areas conditioned upon the filing of informational tariffs for their universal service and Lifeline/Link-Up service offerings.² Additionally, the Partnerships' ETC designations for certain areas served by various incumbent rural telephone companies were further conditioned upon obtaining the agreement of this Commission to redefine the service area requirement.³

In compliance with the *ETC Order*, the Partnerships filed informational tariffs with the NDPSC on May 24, 2004. The Partnerships then commenced providing service as ETCs within the designated areas that did not require redefinition as identified in Table 5 of the *ETC Order*. For the service areas requiring redefinition in which the Partnerships were conditionally

¹ *Northwest Dakota Cellular of North Dakota Limited Partnership Petition for Designation as an Eligible Telecommunications Carrier*, Case No. PU-1226-03-597 (Oct. 15, 2003); *North Central RSA 2 of North Dakota Limited Partnership Petition for Designation as an Eligible Telecommunications Carrier*, Case No. PU-386-03-598 (Oct. 15, 2003); *North Dakota RSA No. 3 Limited Partnership Petition for Designation as an Eligible Telecommunications Carrier*, Case No. PU-897-03-599 (Oct. 15, 2003); *Badlands Cellular of North Dakota Limited Partnership Petition for Designation as an Eligible Telecommunications Carrier*, Case No. PU-1225-03-600 (Oct. 15, 2003); *North Dakota 5 – Kidder Limited Partnership Petition for Designation as an Eligible Telecommunications Carrier*, Case No. PU-338-03-601 (Oct. 15, 2003); *Bismarck MSA Limited Partnership Petition for Designation as an Eligible Telecommunications Carrier*, Case No. PU-494-03-602 (Oct. 15, 2003).

² *Northwest Dakota Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, Case No. PU-1226-03-597; *North Central RSA 2 of North Dakota Limited Partnership Designated Eligible Carrier Application*, Case No. PU-386-03-598; *North Dakota RSA No. 3 Limited Partnership Designated Eligible Carrier Application*, Case No. PU-897-03-599; *Badlands Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, Case No. PU-1225-03-600; *North Dakota 5 – Kidder Limited Partnership Designated Eligible Carrier Application*, Case No. PU-338-03-601; *Bismarck MSA Limited Partnership Designated Eligible Carrier Application*, Case No. PU 494-03-602, Order, (Feb. 25, 2004) ("*ETC Order*") (attached as **Exhibit A** hereto).

³ *Id.*

designated, the Partnerships filed a joint petition before this Commission pursuant to 47 C.F.R. § 54.207(c) requesting approval of the NDPSC's proposed redefinition of the service area requirement. The joint petition was filed on June 3, 2004. This Commission issued a Public Notice on June 17, 2004, soliciting comments on the joint petition.⁴ Pursuant to 47 C.F.R. § 54.207(c)(3)(ii), the redefinition request was deemed approved and effective because the Commission declined to initiate a proceeding within ninety (90) days of the release date of the Public Notice. Thus, the Commission's concurrence with the NDPSC's proposed redefinition became effective on September 15, 2004. The Partnerships then commenced providing service as ETCs within the redefined service areas identified in Table 7 of the *ETC Order*.

Accordingly, the Partnerships seek to qualify for receipt of high-cost universal service support beginning May 24, 2004. The Partnerships request waiver of the annual state certification requirements set forth in Commission Rules 54.313(d)(3)(ii) and 54.314(d)(2) that would otherwise have required the State of North Dakota to certify the Partnerships' use of high-cost universal service support on or before January 1, 2004 (or nearly five months *before* the Partnerships became eligible to receive support as ETCs). Waiver of these rules will enable the Partnerships to receive federal universal service support commencing as of the effective date of their ETC designations in the State of North Dakota, May 24, 2004, through December 31, 2004.

II. THE NEED FOR THE WAIVER

Under Rules 54.313 and 54.314, if a state intends for the incumbent and competitive ETCs within its jurisdiction to receive federal high-cost universal service support, it must annually file with the Commission and the universal service fund administrator, Universal

⁴ *In the Matter of Federal-State Joint Board on Universal Service, Petition for Agreement with Redefinition of Service Area Requirement for Certain Rural Telephone Company Study Areas in the State of North Dakota Pursuant to 47 C.F.R. § 54.207(c)*, CC Docket No. 96-45, Public Notice, DA 04-1739 (rel. June 17, 2004).

Service Administrative Company (“USAC”), a certification stating that all federal high-cost support will be used by the companies only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. 47 C.F.R. §§ 54.313(a) & 54.314(a). To qualify for receipt of high-cost universal service support beginning in the first quarter of a given year, an ETC must be certified by the state on or before October 1 of the prior calendar year. 47 C.F.R. §§ 54.313(d)(3)(i) & 54.314(d)(1). Certifications for the second through fourth quarters of a year must be received by January 1 of the current year, while certifications for the third and fourth quarters must be received by April 1. 47 C.F.R. §§ 54.313(d)(3)(ii)-(iii) & 54.314(d)(2)-(3). Finally, certifications for only the fourth quarter must be received by July 1 of that year. 47 C.F.R. §§ 54.313(d)(3)(iv) & 54.314(d)(4).

In this case, because the Partnerships' ETC designations did not become effective in the State of North Dakota until May 24, 2004, the NDPSC could not have certified the Partnerships' use of support in calendar year 2004 within the filing deadlines set forth in sections 54.313(d)(3)(ii) and 54.314(d)(2).⁵

According to the deadlines set forth in Sections 54.313 and 54.314, the NDPSC would have been required to file the Partnerships' certifications no later than January 1, 2004, to qualify the Partnerships to receive high-cost universal service support from May 24, 2004, through December 31, 2004. 47 C.F.R. §§ 54.313(d)(3)(ii) and 54.314(d)(2). However, because the Partnerships were not designated as ETCs in the State of North Dakota until May 24, 2004, the NDPSC could not have done so by the January 1 deadline. As a result, strict adherence to Sections 54.313 and 54.314 must be waived so that the Partnerships can begin receiving high-cost universal service support as of the effective date of their ETC designations, May 24, 2004.

⁵ A copy of the NDPSC's certification is attached as **Exhibit B** hereto.

To do otherwise would deprive the Partnerships of much needed high-cost universal service support for the entire calendar year 2004, even though the Partnerships began providing service as ETCs effective May 24, 2004.

III. REQUEST FOR WAIVER

The Commission's Rules expressly provide for waiver of any Rule if good cause is first established. 47 C.F.R. § 1.3. In addition, Section 1.925(b)(3) provides for a waiver where it is shown that

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by the application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

47 C.F.R. § 1.925(b)(3). Consistent with these Rules, the Commission “may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest.” *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

In this case, “strict compliance” with the certification requirements and deadlines set forth in Section 54.313 and 54.314 would create the unintended consequence of preventing the Partnerships from receiving federal high-cost universal support for the entire calendar year 2004, even though the Partnerships were designated and providing service as competitive ETCs effective May 24, 2004. Thus, the Partnerships would not receive timely and appropriate universal service support payments despite the fact that they were meeting the obligations as ETCs and providing the supported services in North Dakota from May 24 through December 31, 2004.

The limited waivers that the Partnerships seek are fully consistent with, and supported by, well-established Commission precedent.⁶ In granting waiver requests to other similarly situated ETCs, the Commission has acknowledged that strict application of its filing deadlines may have the effect of penalizing newly designated ETCs.⁷ The Commission has identified this situation as a “special circumstance” that warrants a limited waiver so that ETC support to timely commence.⁸ The Commission has further reasoned that “the potential harm that would be suffered by customers [of the ETC...] justifies a waiver” and found that the loss of three months worth of universal service funding in similar circumstances would be “egregious.”⁹ In addition, the Commission has recently taken affirmative steps to address the need for waivers such as this in a *Notice of Proposed Rulemaking* proposing to amend the rules governing the filing of annual

⁶ See, e.g., *In the Matter of Federal-State Joint Board on Universal Service, N.E. Colorado Cellular, Inc., Petition for Waiver of Section 54.314(d) of the Commission’s Rules*; CC Docket No. 96-45, *Order*, DA 03-2482 (rel. July 25, 2003) (“*N.E. Colorado Order*”); *In the Matter of Federal-State Joint Board on Universal Service, Guam Cellular and Paging, Inc., Petition for Waiver of Section 54.314 of the Commission’s Rules and Regulations*, CC Docket No. 96-45, *Order*, DA 03-1169 (rel. Apr. 17, 2003) (“*Guam Cellular Order*”); *In the Matter of Federal-State Joint Board on Universal Service, RFB Cellular, Inc., Petition for Waiver of Section 53.314(d) and 54.307(c) of the Commission’s Rules and Regulations*, CC Docket No. 96-45, *Order*, DA 02-3316 (rel. Dec. 4, 2002) (“*RFB Order*”).

⁷ See *See Federal-State Joint Board on Universal Service, Grand Communications, Inc. Petition for Waiver of Sections 54.307 and 54.314 of the Commission’s Rules and Regulations, Order*, CC Docket No. 96-45, DA 04-2534 (rel. Aug. 16, 2004) at ¶ 3 (“*Grande Order*”).

⁸ *N.E. Colorado Cellular Order*, ¶ 6; *Guam Cellular Order* ¶ 6; *RFB Order*, ¶ 8.

⁹ *In the Matter of Federal-State Joint Board on Universal Service, West Virginia Public Service Commission, Request for Waiver of State Certification Requirements for High-Cost Universal Service Support for Non-Rural Carriers*, CC Docket No. 96-45, *Order*, DA 01-86, ¶ 7 (rel. Mar. 13, 2001).

certifications and data certifications by ETCs to “allow newly designated ETCs to begin receiving high-cost support as of their ETC designation date.”¹⁰

Granting the requested departures from these Rules would further the Commission’s public policy goals of bringing access to mobile telecommunications technologies to all citizens by enabling the Partnerships to receive support for the provision, maintenance, and upgrading of facilities and services commensurate with their service as competitive ETCs within their respective designated areas. Without timely access to this support, the Partnerships cannot fully begin to fulfill the promises of the Act: “[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.” Pub. L. No. 104-104, 110 Stat. 56 (1996).

Universal service funding is vital to the Partnerships' ability to carry out their mission as ETCs in North Dakota because it will allow the Partnerships to pursue the construction and upgrading of their network to better serve customers within their respective designated ETC service areas. The Partnerships should not be unfairly handicapped or otherwise delayed in pursuing their mission as ETCs by the strict application of rules that were never intended to undermine the purpose of an ETC designation. The Partnerships should not be denied several months worth of high-cost universal service support to which they are otherwise entitled simply because the State of North Dakota could not have filed the certifications required under Sections 54.313 and 54.314 by the January 1, 2004, deadline - which was nearly five months prior to the effective date of the Partnerships' respective ETC designations in North Dakota. In adopting the certification schedule in Section 54.314, the Commission did not intend to create a process that

¹⁰ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Notice of Proposed Rulemaking*, FCC 04-127, ¶ 4 (rel. Jun. 8, 2004) (“NPRM”).

disadvantages carriers receiving the ETC designation subsequent to a quarterly certification deadline.¹¹ In this instance, strict application of the deadlines set forth in Sections 54.313 and 54.314 is inconsistent with the public interest.

In light of abundant Commission precedent and the pending *NPRM*, granting waiver would serve in the public interest so that the Partnerships may receive high-cost universal service support in North Dakota commencing May 24, 2004.

¹¹ See *Grande Order* at ¶ 3.

IV. CONCLUSION

For the forgoing reasons, the Commission should grant the Partnerships' requests for waiver of the certification filing deadlines set forth in 47 C.F.R. §§ 54.313 and 54.314 and accept the NDPSC's November 3, 2004 certification of the Partnerships' use of universal service support as timely filed for purposes of qualifying the Partnerships to begin receiving universal service support effective May 24, 2004.

Respectfully submitted,

Dated: November 12, 2004

WILKINSON BARKER KNAUER LLP

By: _____/s/

L. Charles Keller
2300 N Street, NW
Suite 700
Washington, D.C. 20037
Telephone: (202) 383-3414
Facsimile: (202) 783-5851
ckeller@wbklaw.com

BRIGGS AND MORGAN, P.A.

Mark J. Ayotte
Matthew A. Slaven
2200 First National Bank Building
332 Minnesota Street
Saint Paul, Minnesota 55101
Telephone: (651) 808-6600
Facsimile: (651) 808-6450
mayotte@briggs.com

Attorneys for the Petitioners

Exhibit A

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Northwest Dakota Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application	Case No. PU-1226-03-597
--	--------------------------------

North Central RSA 2 of North Dakota Limited Partnership Designated Eligible Carrier Application	Case No. PU-386-03-598
--	-------------------------------

North Dakota RSA No. 3 Limited Partnership Designated Eligible Carrier Application	Case No. PU-897-03-599
---	-------------------------------

Badlands Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application	Case No. PU-1225-03-600
--	--------------------------------

North Dakota 5 – Kidder Limited Partnership Designated Eligible Carrier Application	Case No. PU-338-03-601
--	-------------------------------

Bismarck MSA Limited Partnership Designated Eligible Carrier Application	Case No. PU-494-03-602
---	-------------------------------

ORDER

February 25, 2004

Preliminary Statement

On October 15, 2003, applications for designation as an Eligible Telecommunications Carrier (ETC) were filed by: North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless (North Central RSA 2); Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless (Badlands Cellular); North Dakota RSA 3 Limited Partnership d/b/a Verizon Wireless (North Dakota RSA 3); Bismarck MSA Limited Partnership d/b/a Verizon Wireless (Bismarck MSA); North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless (North Dakota 5); and

Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless (Northwest Dakota Cellular); (collectively the Partnerships).

The Partnerships seek ETC designation for purposes of receiving federal universal service support for certain rural study areas and non-rural exchanges. For certain rural telephone company study areas not wholly within each applicant's FCC licensed service area, the Partnerships seek redefinition of those areas rural study areas. The Partnerships propose to provide universal services using its own facilities, or a combination of its own facilities and leased facilities, pursuant to 47 U.S.C. §214(e) and the FCC's regulations.

On October 22, 2003 the Commission issued a Notice of Opportunity for Hearing and Notice of Informal Hearing. An informal hearing was held on December 17, 2003. The notice stated that the Commission could determine the matter without a hearing.

The issues to be considered are:

1. The qualification of the applicant under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding.
2. The ETC universal service support area to be designated for the applicant.

On December 5, 2003, BEK Communications Cooperative, Consolidated Telcom, Dakota Central Telecom I, Dakota Central Telecommunications Cooperative, Dickey Rural Access, Inc., Dickey Rural Communications, Inc., Dickey rural Telephone Cooperative, Inter-Community Telephone Company, LLC, Missouri Valley Communications, Inc., Nemont Telephone Cooperative, Inc., North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation, Polar Telecommunications, Inc., Reservation Telephone Cooperative, Turtle Mountain Communications, and United Telephone Mutual Aid Corporation; collectively the Rural Telephone Company Group (RTCG) filed a request to appear in the proceeding. The RTCG stated requested that, if the Commission does not deny the application for redefinition of study areas without a hearing, the RTCG requests a hearing.

On December 17, 2003 the applicants filed affidavits of Mark R. Smith, Director—Financial Reporting and Partnership Relations in support of the applications of the Partnerships.

On December 18, 2003 the Commission issued a Notice of Hearing.

On December 29, 2003 Inter-Community Telephone Company, L.L.C. filed a request to withdraw as an intervenor. The Commission granted the request on January 14, 2004.

On February 6, 2004, the parties filed a Joint Stipulation and six separate Service Area Stipulations setting forth an agreement to resolve objections of the RTCG.

On February 10, 2004, the Commission held an Informal Hearing.

ETC Designation

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as eligible telecommunications carriers (ETCs) and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

The universal services designated for support by Federal universal service support mechanisms include voice grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation for qualifying low-income consumers.

Both federal law and state law provide that the Commission designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

The affidavits of Mark Smith state that:

- 1) Verizon Wireless is a common carrier, is licensed by the FCC to provide commercial mobile radio service (CMRS), and is currently providing CMRS throughout nearly all North Dakota.
- 2) The Partnerships will provide, throughout the areas in which they are seeking ETC designation, the required telecommunications services that are supported by universal service funding. The Partnerships will participate in Lifeline and Link-Up as required.
- 3) The Partnerships advertise the federally supported universal services throughout its requested designated service areas using different media of general distribution including newspaper, television, radio, and billboard advertising, and once designated, will advertise the availability of the supported services and charges using media of general distribution, in accordance with 47 C.F.R. § 54.201(d)(2).
- 4) The Partnerships will comply with all service area requirements, subject to the requested Commission's redefinition of the same.
- 5) Granting ETC designation to the Partnerships will serve the public interest by offering competitive services to North Dakota customers on a more even-handed basis than is the case today. The Partnerships' service offerings have a larger

local calling area as compared to the incumbent landline carriers, as well as benefits of mobility, and customers will be able to combine basic universal services with advanced data services if they so desire.

- 6) The Partnerships will use federal universal service support to provide universal services and extend its wireless networks in rural areas of North Dakota.
- 7) Designation of the Partnerships as ETCs will provide an incentive to the incumbent carrier to improve their existing networks in order to remain competitive, resulting in improved services and benefits to consumers including better service, lower rates, new technology, and provision of new and innovative services for consumers.

All areas for which the Partnerships request ETC designation, with the exception of the Qwest Corporation exchanges, are study areas of rural telephone companies.

The Partnerships agree that an applicant for ETC status is not required to be providing the required universal services to 100% of a service area before receiving designation as an ETC and that facilities to serve customers are required at some reasonable time after the customer agrees to the terms and conditions of the service provided. We continue to subscribe to this policy.

The Partnerships agree to provide quarterly reports describing the status of its E911 implementation in North Dakota.

Universal Service Support Areas

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

47 U.S.C. § 214(e)(5) defines service area:

- (5) **SERVICE AREA DEFINED--** The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

Table 1 lists, for purposes of federal universal service funding, the North Dakota study areas that have been established by the Federal Communications Commission and listed by the Universal Service Administrative Company (USAC) for incumbent local exchange companies (ILECs) serving customers in North Dakota:

TABLE 1

Study Area Name	Included Local Exchange Companies
Absaraka Cooperative Telephone Co., Inc.	Absaraka Co-operative Telephone Company, Inc.
BEK Communications Cooperative	BEK Communications Cooperative
Consolidated Telcom	Consolidated Telcom
Dakota Central Telecommunications Cooperative	Dakota Central Telecommunications Cooperative Dakota Central Telecom I, Inc.
Dickey Rural Telephone Cooperative	Dickey Rural Communications, Inc. Dickey Rural Telephone Cooperative Dickey Rural Access, Inc.
Griggs County Telephone Company	Griggs County Telephone Co
Inter-Community Telephone Company L.L.C.	Inter-Community Telephone Company, L.L.C.
Midstate Communications Inc.	Midstate Communications Inc.
Midstate Telephone Company	Midstate Telephone Company
Moore & Liberty Telephone Company	Moore and Liberty Telephone Company
Nemont Telephone Cooperative, Inc.	Nemont Telephone Cooperative, Inc. Missouri Valley Communications, Inc
Noonan Farmers Telephone Company	Noonan Farmers Telephone Company
North Dakota Telephone Company	North Dakota Telephone Company
Northwest Communications Cooperative	Northwest Communications Cooperative, a Cooperative Association
Polar Communications Mutual Aid Corporation	Polar Communications Mutual Aid Corporation
Polar Telecommunications, Inc.	Polar Telcom, Inc.
Qwest Corporation	Qwest Corporation
Red River Rural Telephone Association	Red River Rural Telephone Association Red River Telecom, Inc.
Reservation Telephone Cooperative	Reservation Telephone Cooperative
SRT Communications, Inc.	SRT Communications, Inc.
United Telephone Mutual Aid Corporation	United Telephone Mutual Aid Corporation Turtle Mountain Communications, Inc.
West River Telecommunications Cooperative	West River Telecommunications Cooperative
Wolverton Telephone Company	Wolverton Telephone Company

Table 2 lists, for purposes of federal universal service funding, the Minnesota study areas that have been established by the Federal Communications Commission and listed by the USAC for ILECs serving customers in North Dakota:

TABLE 2

Study Area Name	Included Local Exchange Companies
Citizens Telecommunications Company of MN	Citizens Telecommunications Company of Minnesota, Inc.
Halstad Telephone Co.	Halstad Telephone Company
Loretel Systems, Inc	Loretel Systems, Inc.

Table 3 lists, for purposes of federal universal service funding, the South Dakota study areas that have been established by the Federal Communications Commission and listed by the USAC for ILECs serving customers in North Dakota:

TABLE 3

Study Area Name	Included Local Exchange Companies
James Valley Cooperative Telephone Company	James Valley Cooperative Telephone Company
Roberts County Telephone Cooperative Association	Roberts County Telephone Cooperative Association RC Communications, Inc.
Venture Communications Cooperative	Venture Communications, Inc.
West River Cooperative Telephone Company	West River Cooperative Telephone Company

Table 4 lists, for purposes of federal universal service funding, the Montana study areas that have been established by the Federal Communications Commission and listed by the USAC for ILECs serving customers in North Dakota:

TABLE 4

Study Area Name	Included Local Exchange Companies
Mid-Rivers Telephone Cooperative, Inc.	Mid-Rivers Telephone Cooperative, Inc.

Table 5 lists the study areas for which the Partnerships request ETC designation and that do not require redefining:

TABLE 5

Applicant name	Study area(s) requested for designation not requiring redefinition under 47 C.F.R. § 54.207(c)
Northwest Dakota Cellular	Noonan Farmers Telephone Company Northwest Communications Cooperative
North Dakota RSA 3	Citizens Telecommunications Company of MN

	Halstad Telephone Co James Valley Cooperative Telephone Company Roberts County Telephone Cooperative Association Red River Rural Telephone Association Venture Communications Cooperative Wolverton Telephone Company Qwest Corporation exchanges of Grafton, Minto, Northwood, Hatton, Mayville, Reynolds, Hillsboro, Jamestown, Valley City, Leonard, Kindred, Wahpeton, Gardner, Hickson and Thompson.
Badlands Cellular	Consolidated Telcom West River Cooperative Telephone Company Qwest Corporation exchanges of Belfield, Mandan, Dickinson, Sidney MT, Fairview MT, McIntosh SD, and Morristown SD
North Dakota 5	Qwest Corporation exchange of Jamestown
Bismarck MSA	Qwest Corporation exchanges of Bismarck and Mandan

The Partnerships have not requested that a designated service area include the Absaraka Cooperative Telephone Co., Inc. or Loretel Systems, Inc. study areas or the Qwest Corporation exchanges of Casselton, Comstock MN, Emerado, Fargo, Larimore, Manvel, Sabin MN, or West Fargo.

Redefinition of Service Areas

The Partnerships have requested that the Commission redefine the service area requirement for certain rural telephone companies from a study area to an individual wire center or partial wire center to the extent that the Partnerships' wireless service area does not cover the entirety of a rural telephone company's study area. Table 6 lists the rural telephone company study areas for which the Partnerships request redefinition.

TABLE 6

Applicant name	Requested redefined study areas under 47 C.F.R. § 54.207(c)
Northwest Dakota Cellular	BEK Communications Cooperative Midstate Telephone Company Nemont Telephone Cooperative, Inc. Reservation Telephone Cooperative SRT Communications, Inc. West River Telecommunications Cooperative
North Central RSA 2	SRT Communications, Inc. United Telephone Mutual Aid Corporation

	North Dakota Telephone Company Midstate Communications Inc. (formerly known as York Telephone Company) Polar Telecommunications, Inc. Polar Communications Mutual Aid Corporation
North Dakota RSA 3	Dakota Central Telecommunications Cooperative Dickey Rural Telephone Cooperative Griggs County Telephone Company Inter-Community Telephone Company LLC Moore & Liberty Telephone Company North Dakota Telephone Company Polar Communications Mutual Aid Corporation Polar Telecommunications, Inc. United Telephone Mutual Aid Corporation
Badlands Cellular	Mid-Rivers Telephone Cooperative, Inc. Midstate Telephone Company Midstate Communications Inc. (formerly known as York Telephone Company) Reservation Telephone Cooperative West River Telecommunications Cooperative
North Dakota 5	BEK Communications Cooperative Dakota Central Telecommunications Cooperative Dickey Rural Telephone Cooperative Griggs County Telephone Company North Dakota Telephone Company West River Telecommunications Cooperative SRT Communications, Inc.
Bismarck MSA	BEK Communications Cooperative West River Telecommunications Cooperative

Table 7 lists the requested service areas within the requested redefined study areas for which the Partnerships request ETC designation.

TABLE 7

Applicant name	Requested designated service areas within study areas requiring redefinition under 47 C.F.R. § 54.207(c)
Northwest Dakota Cellular	all exchanges and partial exchanges of BEK Communications Cooperative, Nemont Telephone Cooperative, Inc., Midstate Telephone Company,

	Reservation Telephone Cooperative, SRT Communications, Inc., Missouri Valley Communications and West River Telecommunications Cooperative within the geographic boundaries of its Federal Communications Commission (FCC) licensed cellular service area in North Dakota (Rural Service Area 1 (RSA 1))
North Central RSA 2	all exchanges and partial exchanges of SRT Communications, Inc., Turtle Mountain Communications, United Telephone Mutual Aid Corporation, North Dakota Telephone Company, York Telephone Company (now know as Midstate Communications Inc.), Polar Telecommunications, Inc., and Polar Communications Mutual Aid Corporation within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 2)
North Dakota RSA 3	all exchanges and partial exchanges of Dakota Central Telecom I, Inc., Dakota Central Telecommunications Cooperative, Dickey Rural Access, Inc., Dickey Rural Communications, Inc., Dickey Rural Telephone Cooperative, Griggs County Telephone Company, Inter-Community Telephone Company LLC, Moore and Liberty Telephone Company, North Dakota Telephone Company, Polar Communications Mutual Aid Corporation, Polar Telecommunications, Inc., and United Telephone Mutual Aid Corporation within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 3)
Badlands Cellular	all exchanges and partial exchanges of Midstate Telephone Company, West River Telecommunications Cooperative, Reservation Telephone Cooperative, Mid-Rivers Telephone Cooperative, Inc., and York Telephone Company (now known as Midstate Communications Inc.) within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 4)
North Dakota 5	all exchanges and partial exchanges of BEK Communications Cooperative, Dickey Rural Telephone Cooperative, Dakota Central Telecommunications Cooperative, Griggs County Telephone Company, North Dakota Telephone Company, West River Telecommunications Cooperative, SRT Communications, Inc., Dakota Central Telecom I, Inc., and Dickey Rural Communications, Inc. within the geographic boundaries of its FCC licensed cellular service area in North Dakota (RSA 5)
Bismarck MSA	All exchanges and partial exchanges of BEK Communications Cooperative and West River Telecommunications Cooperative within the geographic boundaries of its FCC licensed cellular service area in North Dakota (Bismarck Metropolitan Statistical Area (Bismarck MSA))

Factors for Consideration

The Act and the FCC's regulations authorize the FCC and the Commission to act in concert to develop an alternative service area standard for areas served by rural telephone companies in accordance with 47 § C.F.R. 54.207(c)-(d). In defining a service area other than the study area we are required to take into account three factors as follows: (1) minimizing cream skimming; (2) recognizing that the 1996 Act places rural telephone companies on a different competitive footing from other LECs; and (3)

recognizing the administrative burden of requiring rural telephone companies to calculate costs at something other than a study area level.¹

The first factor is the risk that a competitor would selectively target service only to the low cost areas of the rural ILEC's study areas. The affidavits of Mark Smith state that the risk of cream skimming has been practically eliminated because incumbent rural telephone companies can now utilize a process known as "disaggregation," which allows these companies to target their per-line support to better reflect the actual costs of serving different areas throughout their study areas. In the *Virginia Cellular ETC Order* the FCC determined that, because Virginia Cellular was limited to providing facilities-based service only where it is licensed by the FCC, and because Virginia Cellular commits to providing universal service throughout its licensed territory, concerns regarding cream skimming are minimized.² We find no evidence in this proceeding of rural cream skinning effects in redefining the service areas requested by the Partnerships.

The second factor to consider is the regulatory status enjoyed by rural telephone companies under the Act. The affidavits of Mark Smith state that nothing in the service area redefinition process for an ETC applicant affects the rural carrier's various statutory exemptions under the Act, nor does the redefinition process eliminate the public interest analysis to the designation of an additional ETC in the rural telephone company's service area. In the *Virginia Cellular ETC Order* the FCC determined that (1) the high-cost universal service mechanisms support all lines served by ETCs in rural areas; (2) receipt of high-cost support by Virginia Cellular will not affect the total amount of high-cost support that the incumbent rural telephone company receives; (3) to the extent that Virginia Cellular or any future competitive ETC captures incumbent rural telephone company lines, provides new lines to currently unserved customers, or provides second lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve; and (4) redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.³ Based on the evidence in this proceeding we conclude that there is little likelihood of harm to the rural companies. No evidence in this proceeding regarding the regulatory status enjoyed by rural telephone companies under the Act leads us to conclude that the Partnerships' request for redefined study areas should not be granted.

The third factor to consider is whether any administrative burdens might result from the redefinition of the service area requirement. The affidavits of Mark Smith state that the administrative ease of calculating costs on a less-than-study area level is not an issue because any federal universal service support available to a competitive ETC in

¹ *In the Matter of Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338, adopted December 31, 2003, released January 22, 2004 (***Virginia Cellular ETC Order***)

² *Id.* ¶ 42

³ *Id.* ¶ 43

an area served by one of the rural telephone companies would be determined based on the per-line support available to the rural telephone company itself. In the *Virginia Cellular ETC Order* the FCC determined that redefining the rural telephone company service areas will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire incumbent local exchange company study area. The redefinition does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. The FCC found that the concern that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies was not at issue.⁴ No evidence in this proceeding regarding administrative burdens for rural telephone companies leads us to conclude that the Partnerships' request for redefined study areas should be denied.

The affidavits of Mark Smith state that redefinition is in the public interest because it will enable the Partnerships to bring new services and new technologies to customers of North Dakota's rural telephone companies, who now have no choice of universal service providers. The affidavit further states that, because competitor and incumbent licensed service territories are geographically different, and because the study areas of the rural telephone companies wide-ranging, it would be nearly impossible for any other competitive carriers to compete with the incumbents without redefinition.

State Statute Considerations

The North Dakota Legislature enacted N.D.C.C. § 49-21-01.8 in 1999. This law provides that "[a] telecommunications company may not be an eligible telecommunications carrier unless the company offers all services supported by federal universal service mechanisms throughout the study area." During the same session, the Legislature further amended N.D.C.C. § 49-21-01.7 relating to powers of the Commission, specifically granting the Commission the power to:

12. Designate telecommunications companies as eligible telecommunications carriers to receive universal support under sections 214 and 254 of the federal act.
13. Designate geographic service areas for the purpose of determining universal service obligations and support mechanisms under the federal act.

The established rules of statutory interpretation under N.D.C.C. § 1-02-07 require the Commission, if possible, to construe provisions in the same statute so that effect can be given to all provisions. N.D.C.C. § 1-02-09.1 requires that amendments to a statute enacted at the same legislative session are to be harmonized, if possible, so that

⁴ Id. ¶ 44

effect can be given to each. N.D.C.C. § 1-02-38 provides that when the Legislature enacts a statute, it is presumed that the entire statute is intended to be effective, a just and reasonable result is intended, and that it complies with the constitutions of the State of North Dakota and the United States.

As noted above, N.D.C.C. § 49-21-01.7(12) specifically empowers the Commission to designate ETCs under sections 214 and 254 of the federal act. Furthermore, N.D.C.C. § 49-21-01.7(13) expressly gives the Commission the power to designate geographic service areas . . . under the federal act.” These delegations of power from the Legislature necessarily includes the power to redefine a rural company’s “service area” to something less than the company’s “study area” as permitted under 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207. If N.D.C.C. § 49-21-01.8 were construed to restrict an ETC designation to only a study area basis, and without the opportunity for an applicant to seek to redefine the service area requirement consistent with section 214(e)(5), the state law would have the effect of denying the applicant rights that have been conferred by federal law and would render the delegation of power to the Commission meaningless.

Another consideration is that a state law provision that would be construed to limit a federal ETC to providing the supported services throughout a rural telephone company’s “study area” would likely be preempted under both 47 U.S.C. § 254(f) and 47 U.S.C. § 253(a). Section 254(f) limits a state’s authority to adopting “regulations not inconsistent with the [FCC’s] rules to preserve and advance universal service.” Restricting ETC designations under state law to only a study area basis would be inconsistent and directly in conflict with both 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b), which both expressly contemplate and permit the redefinition of the service area requirement for purposes of federal ETC designations. Also, 47 U.S.C. § 253(a) provides that no state statute or regulation may prohibit or have the effect of prohibiting the ability of any entity to provide interstate telecommunications service. A state law that would be construed to deny designation of federal ETC status based on a study area requirement could essentially prohibit the Partnerships’ ability to provide the supported services.

The Commission finds that the proper focus of N.D.C.C. § 49-21-08.1 is that an ETC is required to offer all services supported by federal universal service mechanisms throughout the applicable area in which it has been granted ETC status. This requirement makes the state statute consistent with the obligation of an ETC under 47 U.S.C. § 214(e)(1) of the federal act.

The Commission’s action to redefine the service area requirement as requested by the Partnerships is necessary to facilitate the granting of the federal ETC to the Partnerships in the areas of the rural telephone companies’ service areas that fall within Verizon Wireless’ CMRS licensed areas.

Joint Stipulation

The RTCG members have withdrawn their opposition in these proceedings. The February 6, 2004 Joint Stipulation states that, based on the Commission's decision granting ETC status to Western Wireless in Case No. PU-1564-98-428, the RTCG does not contest the designation of the Partnerships as a federal ETC in those areas where the Partnerships serve the entire study area. The parties stipulate that the Commission may issue Orders in each of the captioned dockets to grant conditional ETC designation in rural service areas where the Partnerships redefine the service area requirement for purposes of ETC designation, subject to the FCC approval of the redefined service area requirement under 47 C.F.R. § 54.207(c). The parties stipulate that redefining the rural service areas for the purposes of the Partnerships universal service support shall not be construed as an agreement to redefine the study areas for purposes of RTCG members universal service support nor construed to constitute a waiver of the RTCG's rights to object to or contest any future ETC applications.

Conclusion

Based on the evidence in this proceeding, each applicant is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding and it is in the public interest the Partnerships each be designated as an ETC in the requested designated service areas.

Order

The Commission orders:

1. Northwest Dakota Cellular of North Dakota Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.
2. North Central RSA 2 of North Dakota Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested conditioned upon FCC approval under 47 C.F.R. § 54.207(c) of the requested redefined study areas.
3. North Dakota RSA No. 3 Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.
4. Badlands Cellular of North Dakota Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.

5. North Dakota 5 – Kidder Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.

6. Bismarck MSA Limited Partnership is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support in the service area requested as follows: (a) is designated in those study areas not requiring redefinition and, (b) in those study areas where redefinition is required under 47 C.F.R. § 54.207(c), is designated conditioned upon FCC approval.

7. Each of the applicants is designated as an eligible telecommunications carrier for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings.

8. Each of the applicants shall file quarterly reports to the Commission describing the status of its wireless E-911 implementation in North Dakota.

PUBLIC SERVICE COMMISSION

**Susan E. Wefald
Commissioner**

**Tony Clark
President**

**Kevin Cramer
Commissioner**

Exhibit B

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
USF Use Certification 47CFR54.314 (2004)
Compliance**

Case No. PU-04-562

ORDER

November 3, 2004

Section 254(e) of the Telecommunications Act of 1996 (Act) requires telecommunications carriers to use universal service support "only for the provision, maintenance, and upgrading of facilities and services for which support is intended." On May 23, 2001, the Federal Communications Commission (FCC) released its Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256 (Fourteenth R&O). The Fourteenth R&O requires that each state public utility regulatory authority file an annual certification with the FCC to ensure that rural telecommunications carriers receiving federal funds under the program use the support only as provided in Section 254(e) of the Act. State certification must be filed no later than October 1 of each year in order for certified telecommunications carriers to receive support for the following year, 47 C.F.R. § 54.314(d).

On August 28, 2002, the NDPSC issued an order in Case No. PU-439-02-441 indicating that any telecommunications carrier providing local exchange service in North Dakota that desires to have NDPSC certification to the FCC under 47 C.F.R. §§54.313 or 54.314 shall file an affidavit with the NDPSC, as described in the order, certifying that federal support they receive is used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended as required by Section 254(e). The NDPSC further ordered that affidavits filed with the NDPSC will be the basis for the NDPSC's certification to the FCC.

Affidavits regarding use of federal universal service support for second through fourth quarters of the year 2004 were filed with the NDPSC by the companies listed in the ordering clause below.

Under North Dakota law, the NDPSC has limited jurisdiction over rural telecommunications carriers. The FCC in its order recognized that some states have only limited regulatory oversight to ensure that federal universal support is reflected in intrastate rates and concluded that such states may nonetheless certify to the FCC that carriers in the state had accounted to the state commission for receipt of federal support, and that the support will be used as required under Section 254(e). (See Fourteenth R&O at ¶ 188). The FCC also recognized that some carriers may not be

NOV 08 2004

RECEIVED

subject to the jurisdiction of a state regulatory authority, and in those instances carriers can certify directly to the FCC by means of a sworn affidavit executed by a corporate officer attesting to the use of the support only for purposes permitted under the Act. (See Fourteenth R&O at ¶ 189).

Based on the foregoing, the NDPSC issues the following:

Order

1. The NDPSC certifies that the following Eligible Telecommunications Carriers providing local exchange service in North Dakota have accounted to the NDPSC by affidavit that all federal support they receive is used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended as required by Section 254(e), or that they will only use the support they receive during the second through fourth quarters of 2004 for the provision, maintenance, and upgrading of facilities and services for which the support is intended under and consistent with Section 254(e) of the Act and 47 C.F.R. § 54.101 throughout each respective company's study area:

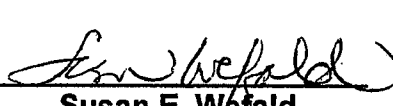


LIST OF COMPANIES

Northwest Dakota Cellular of North Dakota Limited Partnership
North Central RSA 2 of North Dakota Limited Partnership
North Dakota RSA No. 3 Limited Partnership
Badlands Cellular of North Dakota Limited Partnership
North Dakota 5 – Kidder Limited Partnership
Bismarck MSA Limited Partnership

2. The NDPSC certification is based upon the affidavits filed by the foregoing named Eligible Telecommunications Carriers.

3. A copy of each of the filed affidavits is attached to this order.

PUBLIC SERVICE COMMISSION

		
Susan E. Wefald Commissioner	Tony Clark President	Kevin Cramer Commissioner

**BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION IN CASE NO. PU-1226-03-597**

**AND BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION IN DOCKET NO. 96-45**

**AFFIDAVIT OF
NORTHWEST DAKOTA CELLULAR OF NORTH DAKOTA LIMITED PARTNERSHIP
REGARDING CERTIFICATION OF USE OF FEDERAL UNIVERSAL SERVICE SUPPORT**

Mark R. Smith, being first duly sworn on oath, does hereby declare and state upon affiant's own personal knowledge as follows:

1. Affiant serves as the Director – Financial Reporting and Partnership Relations for Northwest Dakota Cellular of North Dakota Limited Partnership ("Company").

2. The Company is an eligible telecommunications carrier ("ETC") within the meaning of Section 214(e) of the Federal Telecommunications Act of 1996 ("Act"), and the Company is eligible to receive federal high-cost universal service support ("Support") pursuant to Section 254(e) of the Act.

3. Affiant is personally familiar with the Support to be received by the Company and how the Company will use the Support.

4. On February 25, 2004, the North Dakota Public Service Commission ("NDPSC") issued an order designating the Company as an ETC for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings. *Northwest Dakota Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, Order, Case No. PU-1226-03-597 (Feb. 25, 2004) ("*Order*"). In compliance with the Commission's *Order*, the Company filed its informational tariff with the Commission on May 24, 2004. The Company then commenced providing services as an ETC within the service areas identified in Table 5 of the *Order*.

5. The Company seeks to qualify for receipt of Support from May 24, 2004, through December 31, 2004. For the Company to qualify for Support under FCC Rules 54.313 and 54.314, the NDPSC must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC"), stating that all Support will be used by the Company only for the provision, maintenance, and upgrading of facilities and services for which the Support is intended. 47 C.F.R. §§ 54.313(a) & 54.314(a).

6. To receive Support for the second quarter of 2004, the period in which the Company's ETC designation became effective, the NDPSC would have had to certify the Company's use of Support with the FCC by January 1, 2004, nearly five months prior to the date the Company was eligible to operate as an ETC. Because the Company's ETC designation was

not effective until May 24, 2004, the NDPSC could not have certified the Company's use of Support within the filing deadlines set forth in FCC Rules 54.313(d) and 54.314(d).


7. Pursuant to FCC Rules 54.313(c) and 54.314(c), the NDPSC "may file a supplemental certification for carriers not subject to the State's annual certification." 47 C.F.R. §§ 54.313(c) and 54.314(c). As of the January 1, 2004, certification deadline, the Company's ETC designation was not effective and, therefore, the Company was not subject to the State's annual certification. Accordingly, NDPSC is authorized by FCC Rules 54.313(c) and 54.314(c) to supplement its earlier certification to certify the Company's use of Support to the FCC effective May 24, 2004.

8. The Company is filing this affidavit in compliance with the FCC's order dated May 23, 2001, in Docket No. 96-45 (FCC 01-157), as codified in 47 C.F.R. §§ 54.313 and 54.314, which require the above certification to the FCC. The Company is also filing this affidavit in compliance with the Orders of the NDPSC dated August 28, 2001, in Case No. PU-439-01-460, and dated August 28, 2002, in Case No. PU-439-02-441, setting forth the procedures and standards for the Commission's certification of the use of federal universal service support. This affidavit is filed to facilitate the Company's receipt of federal Support from the effective date of the ETC designation, May 24, 2004, through December 31, 2004.

9. The Company hereby certifies that it will only use the Support that the Company receives from May 24, 2004, through December 31, 2004, for the provision, maintenance, and upgrading of facilities and services for which the Support is intended pursuant to and consistent with Section 254(e) of the Act and 47 C.F.R. § 54.7. The Company will use the Support to provide the following services, as described in 47 C.F.R. § 54.101(a)(1)-(a)(9), throughout the Company's designated service areas: (a) voice-grade access to the public switched telephone network; (b) local usage; (c) dual-tone multi-frequency signaling or its functional equivalent; (d) single-party service or its functional equivalent; (e) access to emergency services; (f) access to operator services; (g) access to interexchange service; (h) access to directory assistance; and (i) toll limitation for qualifying low-income consumers.

Dated this 14 day of October, 2004

Northwest Dakota Cellular of North Dakota Limited
Partnership

By 
Mark R. Smith
Director – Financial Reporting and Partnership
Relations

State of New Jersey)
) ss.
County of Somerset)

On this 15th day of October 2004, before me, a Notary Public in and for said County and State, personally appeared Mark R. Smith, known to me to be the Director – Financial Reporting and Partnership Relations for Northwest Dakota Cellular of North Dakota Limited Partnership, the company that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Ernest Leba
Notary Public
My Commission Expires 10/30/07

1695520v1

NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 30, 2007

**BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION IN CASE NO. PU-386-03-598**

**AND BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION IN DOCKET NO. 96-45**

**AFFIDAVIT OF
NORTH CENTRAL RSA 2 OF NORTH DAKOTA LIMITED PARTNERSHIP
REGARDING CERTIFICATION OF USE OF FEDERAL UNIVERSAL SERVICE SUPPORT**

Mark R. Smith, being first duly sworn on oath, does hereby declare and state upon affiant's own personal knowledge as follows:

1. Affiant serves as the Director – Financial Reporting and Partnership Relations for North Central RSA 2 of North Dakota Limited Partnership ("Company").

2. The Company is an eligible telecommunications carrier ("ETC") within the meaning of Section 214(e) of the Federal Telecommunications Act of 1996 ("Act"), and the Company is eligible to receive federal high-cost universal service support ("Support") pursuant to Section 254(e) of the Act.

3. Affiant is personally familiar with the Support to be received by the Company and how the Company will use the Support.

4. On February 25, 2004, the North Dakota Public Service Commission ("NDPSC") issued an order designating the Company as an ETC for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings. *North Central RSA 2 of North Dakota Limited Partnership Designated Eligible Carrier Application*, Order, Case No. PU-386-03-598 (Feb. 25, 2004) ("Order"). In compliance with the Commission's *Order*, the Company filed its informational tariff with the Commission on May 24, 2004. The Company then commenced providing services as an ETC within the service areas identified in Table 5 of the *Order*.

5. The Company seeks to qualify for receipt of Support from May 24, 2004, through December 31, 2004. For the Company to qualify for Support under FCC Rules 54.313 and 54.414, the NDPSC must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC"), stating that all Support will be used by the Company only for the provision, maintenance, and upgrading of facilities and services for which the Support is intended. 47 C.F.R. §§ 54.313(a) & 54.314(a).

6. To receive Support for the second quarter of 2004, the period in which the Company's ETC designation became effective, the NDPSC would have had to certify the Company's use of Support with the FCC by January 1, 2004, nearly five months prior to the date the Company was eligible to operate as an ETC. Because the Company's ETC designation was

not effective until May 24, 2004, the NDPSC could not have certified the Company's use of Support within the filing deadlines set forth in FCC Rules 54.313(d) and 54.314(d).


7. Pursuant to FCC Rules 54.313(c) and 54.314(c), the NDPSC "may file a supplemental certification for carriers not subject to the State's annual certification." 47 C.F.R. §§ 54.313(c) and 54.314(c). As of the January 1, 2004, certification deadline, the Company's ETC designation was not effective and, therefore, the Company was not subject to the State's annual certification. Accordingly, NDPSC is authorized by FCC Rules 54.313(c) and 54.314(c) to supplement its earlier certification to certify the Company's use of Support to the FCC effective May 24, 2004.

8. The Company is filing this affidavit in compliance with the FCC's order dated May 23, 2001, in Docket No. 96-45 (FCC 01-157), as codified in 47 C.F.R. §§ 54.313 and 54.314, which require the above certification to the FCC. The Company is also filing this affidavit in compliance with the Orders of the NDPSC dated August 28, 2001, in Case No. PU-439-01-460, and dated August 28, 2002, in Case No. PU-439-02-441, setting forth the procedures and standards for the Commission's certification of the use of federal universal service support. This affidavit is filed to facilitate the Company's receipt of federal Support from the effective date of the ETC designation, May 24, 2004, through December 31, 2004.

9. The Company hereby certifies that it will only use the Support that the Company receives from May 24, 2004, through December 31, 2004, for the provision, maintenance, and upgrading of facilities and services for which the Support is intended pursuant to and consistent with Section 254(e) of the Act and 47 C.F.R. § 54.7. The Company will use the Support to provide the following services, as described in 47 C.F.R. § 54.101(a)(1)-(a)(9), throughout the Company's designated service areas: (a) voice-grade access to the public switched telephone network; (b) local usage; (c) dual-tone multi-frequency signaling or its functional equivalent; (d) single-party service or its functional equivalent; (e) access to emergency services; (f) access to operator services; (g) access to interexchange service; (h) access to directory assistance; and (i) toll limitation for qualifying low-income consumers.

Dated this 14 day of October, 2004

North Central RSA 2 of North Dakota Limited
Partnership

By 
Mark R. Smith
Director – Financial Reporting and Partnership
Relations

State of New Jersey)
County of Somerset) ss.

On this 15th day of October 2004, before me, a Notary Public in and for said County and State, personally appeared Mark R. Smith, known to me to be the Director – Financial Reporting and Partnership Relations for North Central RSA 2 of North Dakota Limited Partnership, the company that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Evelyn Leba
Notary Public
My Commission Expires 10/30/07

1697380v1

Evelyn Leba
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 30, 2007

**BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION IN CASE NO. PU-897-03-599**

**AND BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION IN DOCKET NO. 96-45**

**AFFIDAVIT OF
NORTH DAKOTA RSA NO. 3 LIMITED PARTNERSHIP
REGARDING CERTIFICATION OF USE OF FEDERAL UNIVERSAL SERVICE SUPPORT**

Mark R. Smith, being first duly sworn on oath, does hereby declare and state upon affiant's own personal knowledge as follows:

1. Affiant serves as the Director – Financial Reporting and Partnership Relations for North Dakota RSA No. 3 Limited Partnership ("Company").

2. The Company is an eligible telecommunications carrier ("ETC") within the meaning of Section 214(e) of the Federal Telecommunications Act of 1996 ("Act"), and the Company is eligible to receive federal high-cost universal service support ("Support") pursuant to Section 254(e) of the Act.

3. Affiant is personally familiar with the Support to be received by the Company and how the Company will use the Support.

4. On February 25, 2004, the North Dakota Public Service Commission ("NDPSC") issued an order designating the Company as an ETC for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings. *North Dakota RSA No. 3 Limited Partnership Designated Eligible Carrier Application*, Order, Case No. PU-897-03-599 (Feb. 25, 2004) ("Order"). In compliance with the Commission's Order, the Company filed its informational tariff with the Commission on May 24, 2004. The Company then commenced providing services as an ETC within the service areas identified in Table 5 of the Order.

5. The Company seeks to qualify for receipt of Support from May 24, 2004, through December 31, 2004. For the Company to qualify for Support under FCC Rules 54.313 and 54.414, the NDPSC must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC"), stating that all Support will be used by the Company only for the provision, maintenance, and upgrading of facilities and services for which the Support is intended. 47 C.F.R. §§ 54.313(a) & 54.314(a).

6. To receive Support for the second quarter of 2004, the period in which the Company's ETC designation became effective, the NDPSC would have had to certify the Company's use of Support with the FCC by January 1, 2004, nearly five months prior to the date the Company was eligible to operate as an ETC. Because the Company's ETC designation was

not effective until May 24, 2004, the NDPSC could not have certified the Company's use of Support within the filing deadlines set forth in FCC Rules 54.313(d) and 54.314(d).

7. Pursuant to FCC Rules 54.313(c) and 54.314(c), the NDPSC "may file a supplemental certification for carriers not subject to the State's annual certification." 47 C.F.R. §§ 54.313(c) and 54.314(c). As of the January 1, 2004, certification deadline, the Company's ETC designation was not effective and, therefore, the Company was not subject to the State's annual certification. Accordingly, NDPSC is authorized by FCC Rules 54.313(c) and 54.314(c) to supplement its earlier certification to certify the Company's use of Support to the FCC effective May 24, 2004.

8. The Company is filing this affidavit in compliance with the FCC's order dated May 23, 2001, in Docket No. 96-45 (FCC 01-157), as codified in 47 C.F.R. §§ 54.313 and 54.314, which require the above certification to the FCC. The Company is also filing this affidavit in compliance with the Orders of the NDPSC dated August 28, 2001, in Case No. PU-439-01-460, and dated August 28, 2002, in Case No. PU-439-02-441, setting forth the procedures and standards for the Commission's certification of the use of federal universal service support. This affidavit is filed to facilitate the Company's receipt of federal Support from the effective date of the ETC designation, May 24, 2004, through December 31, 2004.

9. The Company hereby certifies that it will only use the Support that the Company receives from May 24, 2004, through December 31, 2004, for the provision, maintenance, and upgrading of facilities and services for which the Support is intended pursuant to and consistent with Section 254(e) of the Act and 47 C.F.R. § 54.7. The Company will use the Support to provide the following services, as described in 47 C.F.R. § 54.101(a)(1)-(a)(9), throughout the Company's designated service areas: (a) voice-grade access to the public switched telephone network; (b) local usage; (c) dual-tone multi-frequency signaling or its functional equivalent; (d) single-party service or its functional equivalent; (e) access to emergency services; (f) access to operator services; (g) access to interexchange service; (h) access to directory assistance; and (i) toll limitation for qualifying low-income consumers.

Dated this 14 day of October, 2004

North Dakota RSA No. 3 Limited Partnership

By 

Mark R. Smith

Director – Financial Reporting and Partnership
Relations

State of New Jersey)
County of Somerset) ss.

On this 15th day of October 2004, before me, a Notary Public in and for said County and State, personally appeared Mark R. Smith, known to me to be the Director – Financial Reporting and Partnership Relations for North Dakota RSA No. 3 Limited Partnership, the company that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Evelyn Leba
Notary Public
My Commission Expires 10/30/07

1697384v1

Evelyn Leba
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 30, 2007

**BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION IN CASE NO. PU-1225-03-600**

**AND BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION IN DOCKET NO. 96-45**

**AFFIDAVIT OF
BADLANDS CELLULAR OF NORTH DAKOTA LIMITED PARTNERSHIP
REGARDING CERTIFICATION OF USE OF FEDERAL UNIVERSAL SERVICE SUPPORT**

Mark R. Smith, being first duly sworn on oath, does hereby declare and state upon affiant's own personal knowledge as follows:

1. Affiant serves as the Director – Financial Reporting and Partnership Relations for Badlands Cellular of North Dakota Limited Partnership ("Company").

2. The Company is an eligible telecommunications carrier ("ETC") within the meaning of Section 214(e) of the Federal Telecommunications Act of 1996 ("Act"), and the Company is eligible to receive federal high-cost universal service support ("Support") pursuant to Section 254(e) of the Act.

3. Affiant is personally familiar with the Support to be received by the Company and how the Company will use the Support.

4. On February 25, 2004, the North Dakota Public Service Commission ("NDPSC") issued an order designating the Company as an ETC for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings. *Badlands Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, Order, Case No. PU-1225-03-600 (Feb. 25, 2004) ("Order"). In compliance with the Commission's Order, the Company filed its informational tariff with the Commission on May 24, 2004. The Company then commenced providing services as an ETC within the service areas identified in Table 5 of the Order.

5. The Company seeks to qualify for receipt of Support from May 24, 2004, through December 31, 2004. For the Company to qualify for Support under FCC Rules 54.313 and 54.414, the NDPSC must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC"), stating that all Support will be used by the Company only for the provision, maintenance, and upgrading of facilities and services for which the Support is intended. 47 C.F.R. §§ 54.313(a) & 54.314(a).

6. To receive Support for the second quarter of 2004, the period in which the Company's ETC designation became effective, the NDPSC would have had to certify the Company's use of Support with the FCC by January 1, 2004, nearly five months prior to the date the Company was eligible to operate as an ETC. Because the Company's ETC designation was

not effective until May 24, 2004, the NDPSC could not have certified the Company's use of Support within the filing deadlines set forth in FCC Rules 54.313(d) and 54.314(d).

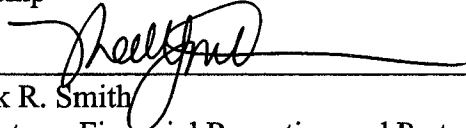
7. Pursuant to FCC Rules 54.313(c) and 54.314(c), the NDPSC "may file a supplemental certification for carriers not subject to the State's annual certification." 47 C.F.R. §§ 54.313(c) and 54.314(c). As of the January 1, 2004, certification deadline, the Company's ETC designation was not effective and, therefore, the Company was not subject to the State's annual certification. Accordingly, NDPSC is authorized by FCC Rules 54.313(c) and 54.314(c) to supplement its earlier certification to certify the Company's use of Support to the FCC effective May 24, 2004.

8. The Company is filing this affidavit in compliance with the FCC's order dated May 23, 2001, in Docket No. 96-45 (FCC 01-157), as codified in 47 C.F.R. §§ 54.313 and 54.314, which require the above certification to the FCC. The Company is also filing this affidavit in compliance with the Orders of the NDPSC dated August 28, 2001, in Case No. PU-439-01-460, and dated August 28, 2002, in Case No. PU-439-02-441, setting forth the procedures and standards for the Commission's certification of the use of federal universal service support. This affidavit is filed to facilitate the Company's receipt of federal Support from the effective date of the ETC designation, May 24, 2004, through December 31, 2004.

9. The Company hereby certifies that it will only use the Support that the Company receives from May 24, 2004, through December 31, 2004, for the provision, maintenance, and upgrading of facilities and services for which the Support is intended pursuant to and consistent with Section 254(e) of the Act and 47 C.F.R. § 54.7. The Company will use the Support to provide the following services, as described in 47 C.F.R. § 54.101(a)(1)-(a)(9), throughout the Company's designated service areas: (a) voice-grade access to the public switched telephone network; (b) local usage; (c) dual-tone multi-frequency signaling or its functional equivalent; (d) single-party service or its functional equivalent; (e) access to emergency services; (f) access to operator services; (g) access to interexchange service; (h) access to directory assistance; and (i) toll limitation for qualifying low-income consumers.

Dated this 14 day of October, 2004

Badlands Cellular of North Dakota Limited
Partnership

By 
Mark R. Smith
Director – Financial Reporting and Partnership
Relations

State of New Jersey)
) ss.
County of Somerset)

On this 15th day of October 2004, before me, a Notary Public in and for said County and State, personally appeared Mark R. Smith, known to me to be the Director – Financial Reporting and Partnership Relations for Badlands Cellular of North Dakota Limited Partnership, the company that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Evelyn Leba
Notary Public
My Commission Expires 10/30/07

1697385v1

Evelyn Leba
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 30, 2007

**BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION IN CASE NO. PU-338-03-601**

**AND BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION IN DOCKET NO. 96-45**

**AFFIDAVIT OF
NORTH DAKOTA 5 – KIDDER LIMITED PARTNERSHIP
REGARDING CERTIFICATION OF USE OF FEDERAL UNIVERSAL SERVICE SUPPORT**

Mark R. Smith, being first duly sworn on oath, does hereby declare and state upon affiant's own personal knowledge as follows:

1. Affiant serves as the Director – Financial Reporting and Partnership Relations for North Dakota 5 – Kidder Limited Partnership ("Company").

2. The Company is an eligible telecommunications carrier ("ETC") within the meaning of Section 214(e) of the Federal Telecommunications Act of 1996 ("Act"), and the Company is eligible to receive federal high-cost universal service support ("Support") pursuant to Section 254(e) of the Act.

3. Affiant is personally familiar with the Support to be received by the Company and how the Company will use the Support.

4. On February 25, 2004, the North Dakota Public Service Commission ("NDPSC") issued an order designating the Company as an ETC for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings. *North Dakota 5 – Kidder Limited Partnership Designated Eligible Carrier Application*, Order, Case No. PU-338-03-601 (Feb. 25, 2004) ("Order"). In compliance with the Commission's *Order*, the Company filed its informational tariff with the Commission on May 24, 2004. The Company then commenced providing services as an ETC within the service areas identified in Table 5 of the *Order*.

5. The Company seeks to qualify for receipt of Support from May 24, 2004, through December 31, 2004. For the Company to qualify for Support under FCC Rules 54.313 and 54.414, the NDPSC must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC"), stating that all Support will be used by the Company only for the provision, maintenance, and upgrading of facilities and services for which the Support is intended. 47 C.F.R. §§ 54.313(a) & 54.314(a).

6. To receive Support for the second quarter of 2004, the period in which the Company's ETC designation became effective, the NDPSC would have had to certify the Company's use of Support with the FCC by January 1, 2004, nearly five months prior to the date the Company was eligible to operate as an ETC. Because the Company's ETC designation was

not effective until May 24, 2004, the NDPSC could not have certified the Company's use of Support within the filing deadlines set forth in FCC Rules 54.313(d) and 54.314(d).

7. Pursuant to FCC Rules 54.313(c) and 54.314(c), the NDPSC "may file a supplemental certification for carriers not subject to the State's annual certification." 47 C.F.R. §§ 54.313(c) and 54.314(c). As of the January 1, 2004, certification deadline, the Company's ETC designation was not effective and, therefore, the Company was not subject to the State's annual certification. Accordingly, NDPSC is authorized by FCC Rules 54.313(c) and 54.314(c) to supplement its earlier certification to certify the Company's use of Support to the FCC effective May 24, 2004.

8. The Company is filing this affidavit in compliance with the FCC's order dated May 23, 2001, in Docket No. 96-45 (FCC 01-157), as codified in 47 C.F.R. §§ 54.313 and 54.314, which require the above certification to the FCC. The Company is also filing this affidavit in compliance with the Orders of the NDPSC dated August 28, 2001, in Case No. PU-439-01-460, and dated August 28, 2002, in Case No. PU-439-02-441, setting forth the procedures and standards for the Commission's certification of the use of federal universal service support. This affidavit is filed to facilitate the Company's receipt of federal Support from the effective date of the ETC designation, May 24, 2004, through December 31, 2004.

9. The Company hereby certifies that it will only use the Support that the Company receives from May 24, 2004, through December 31, 2004, for the provision, maintenance, and upgrading of facilities and services for which the Support is intended pursuant to and consistent with Section 254(e) of the Act and 47 C.F.R. § 54.7. The Company will use the Support to provide the following services, as described in 47 C.F.R. § 54.101(a)(1)-(a)(9), throughout the Company's designated service areas: (a) voice-grade access to the public switched telephone network; (b) local usage; (c) dual-tone multi-frequency signaling or its functional equivalent; (d) single-party service or its functional equivalent; (e) access to emergency services; (f) access to operator services; (g) access to interexchange service; (h) access to directory assistance; and (i) toll limitation for qualifying low-income consumers.

Dated this 14 day of October, 2004

North Dakota 5 – Kidder Limited Partnership

By


Mark R. Smith

Director – Financial Reporting and Partnership
Relations

State of New Jersey)
) ss.
County of Somerset)

On this 15th day of October 2004, before me, a Notary Public in and for said County and State, personally appeared Mark R. Smith, known to me to be the Director – Financial Reporting and Partnership Relations for North Dakota 5 – Kidder Limited Partnership, the company that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Evelyn Leba
Notary Public
My Commission Expires 10/30/07

1697388v1

Evelyn Leba
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 30, 2007

**BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION IN CASE NO. PU-494-03-602**

**AND BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION IN DOCKET NO. 96-45**

**AFFIDAVIT OF
BISMARCK MSA LIMITED PARTNERSHIP
REGARDING CERTIFICATION OF USE OF FEDERAL UNIVERSAL SERVICE SUPPORT**

Mark R. Smith, being first duly sworn on oath, does hereby declare and state upon affiant's own personal knowledge as follows:

1. Affiant serves as the Director – Financial Reporting and Partnership Relations for Bismarck MSA Limited Partnership ("Company").

2. The Company is an eligible telecommunications carrier ("ETC") within the meaning of Section 214(e) of the Federal Telecommunications Act of 1996 ("Act"), and the Company is eligible to receive federal high-cost universal service support ("Support") pursuant to Section 254(e) of the Act.

3. Affiant is personally familiar with the Support to be received by the Company and how the Company will use the Support.

4. On February 25, 2004, the North Dakota Public Service Commission ("NDPSC") issued an order designating the Company as an ETC for the purpose of receiving federal universal service support in the designated service areas conditioned upon the filing of a tariff for its universal service, Lifeline, and Link-Up offerings. *Bismarck MSA Limited Partnership Designated Eligible Carrier Application*, Order, Case No. PU-494-03-602 (Feb. 25, 2004) ("Order"). In compliance with the Commission's Order, the Company filed its informational tariff with the Commission on May 24, 2004. The Company then commenced providing services as an ETC within the service areas identified in Table 5 of the Order.

5. The Company seeks to qualify for receipt of Support from May 24, 2004, through December 31, 2004. For the Company to qualify for Support under FCC Rules 54.313 and 54.414, the NDPSC must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC"), stating that all Support will be used by the Company only for the provision, maintenance, and upgrading of facilities and services for which the Support is intended. 47 C.F.R. §§ 54.313(a) & 54.314(a).

6. To receive Support for the second quarter of 2004, the period in which the Company's ETC designation became effective, the NDPSC would have had to certify the Company's use of Support with the FCC by January 1, 2004, nearly five months prior to the date the Company was eligible to operate as an ETC. Because the Company's ETC designation was

not effective until May 24, 2004, the NDPSC could not have certified the Company's use of Support within the filing deadlines set forth in FCC Rules 54.313(d) and 54.314(d).

7. Pursuant to FCC Rules 54.313(c) and 54.314(c), the NDPSC "may file a supplemental certification for carriers not subject to the State's annual certification." 47 C.F.R. §§ 54.313(c) and 54.314(c). As of the January 1, 2004, certification deadline, the Company's ETC designation was not effective and, therefore, the Company was not subject to the State's annual certification. Accordingly, NDPSC is authorized by FCC Rules 54.313(c) and 54.314(c) to supplement its earlier certification to certify the Company's use of Support to the FCC effective May 24, 2004.

8. The Company is filing this affidavit in compliance with the FCC's order dated May 23, 2001, in Docket No. 96-45 (FCC 01-157), as codified in 47 C.F.R. §§ 54.313 and 54.314, which require the above certification to the FCC. The Company is also filing this affidavit in compliance with the Orders of the NDPSC dated August 28, 2001, in Case No. PU-439-01-460, and dated August 28, 2002, in Case No. PU-439-02-441, setting forth the procedures and standards for the Commission's certification of the use of federal universal service support. This affidavit is filed to facilitate the Company's receipt of federal Support from the effective date of the ETC designation, May 24, 2004, through December 31, 2004.

9. The Company hereby certifies that it will only use the Support that the Company receives from May 24, 2004, through December 31, 2004, for the provision, maintenance, and upgrading of facilities and services for which the Support is intended pursuant to and consistent with Section 254(e) of the Act and 47 C.F.R. § 54.7. The Company will use the Support to provide the following services, as described in 47 C.F.R. § 54.101(a)(1)-(a)(9), throughout the Company's designated service areas: (a) voice-grade access to the public switched telephone network; (b) local usage; (c) dual-tone multi-frequency signaling or its functional equivalent; (d) single-party service or its functional equivalent; (e) access to emergency services; (f) access to operator services; (g) access to interexchange service; (h) access to directory assistance; and (i) toll limitation for qualifying low-income consumers.

Dated this 14 day of October, 2004

Bismarck MSA Limited Partnership

By 

Mark R. Smith

Director – Financial Reporting and Partnership
Relations

State of New Jersey)
County of Somerset) ss.

On this 15th day of October 2004, before me, a Notary Public in and for said County and State, personally appeared Mark R. Smith, known to me to be the Director – Financial Reporting and Partnership Relations for Bismarck MSA Limited Partnership, the company that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Evelyn Leba

Notary Public

My Commission Expires 10/30/07

1697390v1

Evelyn Leba
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 30, 2007